

## **TITLE 329 SOLID WASTE MANAGEMENT BOARD**

### **PROPOSED RULE AS PRELIMINARILY ADOPTED**

LSA Document #05-250

#### **DIGEST**

Adds 329 IAC 11.5 to establish a program to remove mercury switches from end-of-life vehicles as required by IC 13-20-17.7 (P.L. 170-2006). Effective 30 days after filing with the Publisher.

#### **HISTORY**

First Notice of Comment Period: October 1, 2005, Indiana Register (29 IR 221).

Continuation of First Notice of Comment Period: May 1, 2006, Indiana Register (29 IR 2696).

Second Notice of Comment Period: August 9, 2006, Indiana Register (DIN: 20060809-IR-329050250SNA).

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Notice of Second Public Hearing: February 21, 2007, Indiana Register (DIN: 20070221-IR-329050250PHA).

#### **329 IAC 11.5**

SECTION 1. 329 IAC 11.5 IS ADDED TO READ AS FOLLOWS:

#### **ARTICLE 11.5. MERCURY SWITCHES**

##### **Rule 1. General Provisions**

##### **329 IAC 11.5-1-1 Purpose**

**Authority:** IC 13-14-8-7; IC 13-15; IC 13-19-3

**Affected:** IC 13-20; IC 36-9-30

**Sec. 1. The purpose of this article is to implement the provisions of Public Law 170-2006 requiring the removal of mercury switches from end-of-life vehicles. (*Solid Waste Management Board; 329 IAC 11.5-1-1*)**

##### **329 IAC 11.5-1-2 Enforcement**

**Authority:** IC 13-14-8-7; IC 13-15; IC 13-19-3

**Affected:** IC 13-20; IC 36-9-30

**Sec. 2. This article will be enforced through IC 13-30, as appropriate. (*Solid Waste Management Board; 329 IAC 11.5-1-2*)**

##### **329 IAC 11.5-1-3 Incorporation by reference**

**Authority:** IC 13-14-8-7; IC 13-15; IC 13-19-3

**Affected:** IC 13-20; IC 36-9-30

**Sec. 3. Unless specified in the incorporated by reference documents incorporated in this article, the version of documents referenced in the incorporated by reference documents is the latest version that is in effect on the date of the latest adoption of the incorporated by reference documents in this article. (*Solid Waste Management Board; 329 IAC 11.5-1-3*)**

##### **329 IAC 11.5-1-4 Records and standards for submitted information**

**Authority:** IC 13-14-8-7; IC 13-15; IC 13-19-3

**Affected:** IC 13-20; IC 36-9-30

**Sec. 4. (a) Any owner or operator of a motor vehicle recycler business in Indiana or any other person in Indiana that removes mercury switches from end-of-life vehicles is required to do the following:**

- (1) Report annually to the department in a form or format specified by the department.**
- (2) Submit the report by January 31 for the previous year.**
- (3) Include the following:**

**(A) The number of each of the following:**

- (i) Vehicles with convenience switches that were processed by the business in a calendar year from January 1 through December 31 of the same year.**
- (ii) Convenience switches that have been removed during the calendar year from January 1 through December 31 of the same year.**
- (iii) Convenience switches that have been returned for processing in the calendar year from January 1 through December 31 of the same year.**
- (iv) Removed convenience switches that remain on site as of December 31.**
- (v) ABS switches that have been removed during the calendar year from January 1 through December 31 of the same year.**

**(B) The approximate percentage of the vehicles processed at the business that have convenience switches that contain mercury during the reporting calendar year.**

**(b) The owner or operator of a motor vehicle recycler business in Indiana or any other person in Indiana that removes mercury switches from end-of-life vehicles shall record and retain at the business in an operating record any records required by this article.**

**(c) All records required by this article shall be retained by the owner or operator of a motor vehicle recycler business in Indiana or any other person in Indiana that removes mercury switches from end-of-life vehicles:**

- (1) for a period of three (3) years; or**
- (2) until the rule expires or is repealed;**

**whichever is less.**

*(Solid Waste Management Board; 329 IAC 11.5-1-4)*

#### **329 IAC 11.5-1-5 Electronic submission of information**

**Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3**

**Affected: IC 13-20; IC 36-9-30**

**Sec. 5. (a) Electronic submission of information that is required by this article may be requested by the commissioner. The format and submittal mechanism will be prescribed by the commissioner. Any information submitted on electronic media also must be submitted as a paper copy or copies, unless the commissioner makes a determination that only an electronic copy or a paper copy is needed.**

**(b) Electronically submitted information must meet the following requirements:**

- (1) Section 4 of this rule.**
- (2) The submittal deadlines of this article.**

*(Solid Waste Management Board; 329 IAC 11.5-1-5)*

#### **329 IAC 11.5-1-6 Rule compliance**

**Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3**

**Affected: IC 13-20; IC 36-9-30**

**Sec. 6. (a) If a motor vehicle recycler in Indiana or other person in Indiana that removes convenience switches requests payment under 329 IAC 11.5-4-1, the:**

- (1) owners or operators of a motor vehicle recycler business; or**
- (2) other person that removes convenience switches;**

**may be subject to inspection by a department representative to verify that only convenience switches and ABS switches that contain mercury are being sent for processing.**

**(b) A motor vehicle recycler in Indiana or other person in Indiana that removes**

convenience switches must obtain documentation that an intentionally crushed vehicle has had the convenience switch removed and recycled. *(Solid Waste Management Board; 329 IAC 11.5-1-6)*

**329 IAC 11.5-1-7 Statutory expiration effect**

**Authority:** IC 13-14-8-7; IC 13-15; IC 13-19-3

**Affected:** IC 13-20; IC 36-9-30

**Sec. 7.** If the authorizing statute expires, the rule is considered repealed after sixty (60) days. *(Solid Waste Management Board; 329 IAC 11.5-1-7)*

**Rule 2. Definitions**

**329 IAC 11.5-2-1 Definitions**

**Authority:** IC 13-14-8-7; IC 13-15; IC 13-19-3

**Affected:** IC 13-11-2; IC 13-20; IC 36-9-30

**Sec. 1.** The definitions in IC 13-11-2 and this rule apply throughout this article. *(Solid Waste Management Board; 329 IAC 11.5-2-1)*

**329 IAC 11.5-2-2 "Container" defined**

**Authority:** IC 13-14-8-7; IC 13-15; IC 13-19-3

**Affected:** IC 13-20; IC 36-9-30

**Sec. 2.** "Container" means the collection device provided by the automobile manufacturers through an automobile manufacturer's alliance to the motor vehicle recycler or other person removing convenience switches. This container:

(1) provides storage at the business; and

(2) must comply with the universal waste regulations for transportation.

*(Solid Waste Management Board; 329 IAC 11.5-2-2)*

**329 IAC 11.5-2-3 "Motor vehicle recycler" defined**

**Authority:** IC 13-14-8-7; IC 13-15; IC 13-19-3

**Affected:** IC 13-11-2-130.3; IC 13-20; IC 36-9-30

**Sec. 3.** "Motor vehicle recycler" has the meaning set forth in IC 13-11-2-130.3. *(Solid Waste Management Board; 329 IAC 11.5-2-3)*

**Rule 3. Anti-Lock Brake System (ABS) Allowance**

**329 IAC 11.5-3-1 ABS allowance**

**Authority:** IC 13-14-8-7; IC 13-15; IC 13-19-3

**Affected:** IC 13-20; IC 36-9-30

**Sec. 1.** At the discretion of:

(1) the owner or operator of a motor vehicle recycler business in Indiana; or

(2) any other person in Indiana that removes mercury switches from end-of-life vehicles; anti-lock brake mercury pellets or assemblies that contain mercury may be removed, collected, and sent for processing with convenience switches and payment requested under 329 IAC 11.5-4-1. *(Solid Waste Management Board; 329 IAC 11.5-3-1)*

**Rule 4. Mercury Switch Removal, Storage, and Disposal Requirements**

**329 IAC 11.5-4-1 Mercury switch removal, storage, and disposal requirements**

**Authority:** IC 13-14-8-7; IC 13-15; IC 13-19-3

**Affected:** IC 13-20-17.7-2; IC 13-20-17.7-5; IC 36-9-30

**Sec. 1. (a)** All owners or operators of a motor vehicle recycler business in Indiana are

required to remove and collect convenience switch mercury pellets or assemblies and may collect ABS switches or assemblies from end-of-life vehicles upon the effective date as required by IC 13-20-17.7-5(a). Any other person in Indiana that removes mercury switches or ABS switches containing mercury from end-of-life vehicles must do so in accordance with this article.

(b) The convenience switch mercury pellets or assemblies and ABS switches or assemblies that contain mercury must be stored in a container that meets the definition at 329 IAC 11.5-2-2.

(c) Each container must contain not more than four hundred fifty (450) pellets.

(d) If the container, provided to the owners or operators of a motor vehicle recycler business in Indiana by the automobile manufacturers, is used and sent to the mercury processor specified by the automobile manufacturer in the approved plan required by IC 13-20-17.7-2, then the requirements for mercury containing devices under the universal waste requirements are considered to be met for storage, transportation, recycling, and disposal. *(Solid Waste Management Board; 329 IAC 11.5-4-1)*

#### **Rule 5. Payment Procedure**

##### **329 IAC 11.5-5-1 Payment procedure**

**Authority:** IC 13-14-8-7; IC 13-15; IC 13-19-3

**Affected:** IC 9-22-4; IC 13-20; IC 36-9-30

**Sec. 1. (a) As follows, owners or operators of a motor vehicle recycler business in Indiana or any other person in Indiana that removes mercury switches from end-of-life vehicles:**

- (1) May submit a request to the department for reimbursement under subsection (c).**
- (2) Must record and submit the following to the department when requesting reimbursement:**
  - (A) A list of the make, model, and year of each vehicle that had convenience switches or ABS switches that contain mercury removed.**
  - (B) The number of switches taken from that vehicle.**
- (3) Must submit for reimbursement the following information:**
  - (A) The facility's salvage motor vehicle business license number, as issued by the Indiana bureau of motor vehicles under IC 9-22-4, as implemented under 140 IAC 3-3.**
  - (B) The number of:**
    - (i) convenience switches; and**
    - (ii) ABS switches;****removed, collected, and transported to the mercury processor.**

**(b) The owners or operators of a motor vehicle recycler business in Indiana or any other person in Indiana that removes mercury switches from end-of-life vehicles that submit the information required by this section for reimbursement must sign an affidavit as part of the submitted information stating the following:**

- (1) The convenience switches and ABS switches that were removed and sent for processing contained mercury.**
- (2) All information submitted is true and accurate.**

**(c) Based on the submitted information, the department will pay three dollars (\$3) for each convenience switch pellet and five dollars (\$5) for each ABS switch assembly that contains mercury as the commissioner appropriates the funds.**

**(d) It is a violation of this article to submit a request for reimbursement for convenience switches and ABS switches that do not contain mercury. *(Solid Waste Management Board; 329 IAC 11.5-5-1)***